IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 5245 of 1998

Between:

P.Bhoomanna, S/o P. Bhoomanna, aged 55 years,
Junior Accounts Officer,Office of Divisional Engineer (C&O), Adilabad .

..... PETITIONER

AND

1 APSEB, represented by its member Secretary,
Vidyut Soudha , Hyderabad
2 Superintendent Engineer (Operation Circle), APSEB,
Adilabad.
3 The Divisional Engineer Electrical (C&O), APSEB,
Adilabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or Order or Direction more particularly one in the nature of Writ of Mandamus declaring that the petitioner need not pass departmental tests for promotion to the post of Junior Accounts Officer and declare the proceedings Memo No. SE/OP/ADB/PO/ADM/E2/D. No. 14211/98 dt 3-2-98 of the 2nd respondent as illegal, arbitrary and without jurisdiction and consequently direct the respondent Board herein to continue the petitioner as Junior Accounts Officer in pursuance of its promotion given in Memo SE/OP/ADB/PO/e2/D.No. 1007/96 dt 17-5-96 with all consequential benefits.

Counsel for the Petitioner: MR.G.VIDYASAGAR

Counsel for the Respondents: MR. S. KISHORE

(SC FOR A.P.S.E.B.)

The Court made the following :

O R D E R

This Writ Petition is filed seeking a Mandamus declaring the proceedings Memo No. SE/OP/ADB/PO/ADM/E2/D. No. 14211/98, dated 03.02.1998, of the 2nd respondent reverting the petitioner from the post of Junior Accounts Officer to that of U.D.C. as arbitrary and illegal and for consequential direction.

It is the case of the petitioner that he was initially appointed as L.D.C. into the Respondents-board with effect from 22.06.1964. Subsequently, he was also promoted as U.D.C. with effect from 27.12.1969. Further, on completion of 15 years of service, he was also granted Special Promotion Scale with effect from 23.08.1994. The next promotion from the cadre of U.D.C. is to that of Junior Accounts Officer. Apart from seniority, one should have passed the departmental test. However, the Department has issued orders time and again stating that those who are holding Special Grade Posts in the cadre of U.D.C. are exempted from passing departmental test. Further, under B.P. Ms. No. 326, dated 03.09.1993, it was further made clear that those who have crossed 50 years of age also need not pass the departmental test for being promoted to the post of Junior Accounts Officer etc. In fact, the case of the petitioner was considered and he was promoted to the post of Junior Accounts Officer with effect from 17.05.1996. However, the petitioner was issued with a show cause notice on 21.07.1997 stating that the relaxation granted in B.P. Ms. No. 664, dated 05.08.1981, for the purpose of passing departmental examination by the persons those who are holding Special Grade Promotion Posts, was quashed by this Court and further confirmed by the Supreme Court. Therefore, the petitioner was asked to explain as to why his promotion shall not be cancelled since he was granted exemption under B.P.Ms. No. 664, dated 05.08.1981. The petitioner has submitted his explanation stating that he is entitled for being considered for promotion under B.P. Ms. No.326, dated 03.09.1993, since as on the date of promotion, he has completed 50 years of age and the said B.P.Ms. was not challenged before the Court of law. Nonetheless, the impugned proceedings were

passed by the respondents reverting the petitioner from the post of Junior Accounts Officer to that of U.D.C. Hence this writ petition.

At the time of admission of writ petition, the petitioner obtained the orders of status quo of the impugned proceedings and continued in service as Junior Accounts Officer and on attaining the age of superannuation, the petitioner retired from the service of the Board as a Junior Accounts Officer with effect from 31.12.2000.

Now the grievance of the petitioner is that though he was continued in view of the interim order passed by this Court as Junior Accounts Officer and ultimately retired on 31.12.2000, the services of the petitioner was counted only as U.D.C. and the pensionary benefits was settled as if the petitioner retired as U.D.C. and not as Junior Accounts Officer.

In my considered opinion that once the petitioner was promoted in pursuance of B.P. Ms. 326, dated 03.09.1993 i.e. by extending relaxation of passing of departmental test since he had completed 50 years of age, the reversion of the petitioner without examining the provisions of B.P.Ms.No.326, dated 03.09.1993, is arbitrary and illegal. Therefore, the impugned order, dated 03.02.1998, is liable to be set aside and accordingly set aside.

In the result, the writ petition is allowed and the respondents are directed to settle all the pensionary benefits of the petitioner as if he retired on attaining the age of superannuation on 31.12.2000 in the cadre of Junior Accounts Officer and settle his dues within a period of three months from the date of receipt of copy of this order.

C.V. RAMULU, J

20th June, 2005

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Rule Nisi absolute as above. Witnesseth Hon'ble Sri Bilal Nazki, the Acting Chief Justice, on this Monday, the twentieth day of June, two thousand and five.

ASST. REGISTRAR

//true copy//

SECTION OFFICERR

To

1. The Member Secretary, A.P.S.E.B. Vidyut Soudha, Hyderabad,
2. The Superintending Engineer (Operations Circle), A.P.S.E.B. Adilabad
3. The Divisional Engineer Electrical (C&O), A.P.S.E.B. Adilabad
4. 2 C.D. copies.